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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,378	12/27/2004	Heinz Focke	20605.014US	5182

22870 7590 03/15/2007  
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EXAMINER
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HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/500,378

Applicant(s)

FOCKE ET AL.

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/27/04 & 7/5/06.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
- Claim 1, lines 7-8: “the direction of a free periphery or of the peripheral folding tab” lacks proper antecedent basis.
- Claim 2, line 3: “the same” is indefinite because it is unclear as to what “the same” is supposed to be.
- Claim 3, line 5: “the surface of the pack” lacks proper antecedent basis.
- Claim 4, line 4: “in particular” renders the claim indefinite for it is unclear whether the limitation following the phrase is a part of the claimed invention.
- Claim 4, line 6: “the region where the butt” lacks proper antecedent basis.
- Claim 5, line 3: “the circumference” lacks proper antecedent basis.
- Claim 5, line 7: “the same” is indefinite because it is unclear as to what “the same” is supposed to be.

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- Claim 6, line 3: “in particular” renders the claim indefinite for it is unclear whether the limitation following the phrase is a part of the claimed invention, which renders “the folding crosspieces” on line 6 lacking proper antecedent basis.
- Claim 6, line 4: “- inner tab (27) -” is not understood.
- Claim 7, line 7: “the supporting lug” lacks proper antecedent basis.
- Claim 7, line 8: “the latter” is indefinite because it is unclear as to what “the latter” is supposed to be.
- Claim 7, lines 8-9: “the inner tab and outer tab” lacks proper antecedent basis.
- Claim 8, line 5: “the article” lacks proper antecedent basis.
- Claim 9, line 3: “the same” is indefinite because it is unclear as to what “the same” is supposed to be.
- Claim 11, line 4: “the conveying direction of the packs” lacks proper antecedent basis.
- Claim 11, line 5: “the region where the butt” lacks proper antecedent basis.
- Claim 12, line 6: “the same” is indefinite because it is unclear as to what “the same” is supposed to be.
- Claim 14, line 7: “the supporting lug” lacks proper antecedent basis.
- Claim 14, line 7: “the latter” is indefinite because it is unclear as to what “the latter” is supposed to be.
- Above are only a few examples, applicant is respectfully requested to review and rewrite the claims so as to clearly and positively claim his/her invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke'309 (US 5,996,309).

- With respect to claims 1 and 8, Focke'309 discloses an apparatus for producing packs comprising a folding element (56) that meets all of applicant's claimed subject matter, wherein the folding element (56) is configured to fold top flap (53) of a blank (11), in a transverse direction (19) with respect to a moving direction, over a surface (19) of a packet (12) to be wrapped with the blank (11).
- With respect to claims 2 and 9, the folding element (56) moves in rotation along a surface (16) of the packet (12).
- With respect to claims 3 and 10, the folding element (56) is a folding roller having strip-like abutment as shown in Fig. 8.
- With respect to claims 4 and 11, the folding roller (56) is mounted for rotation at a fixed location while the packet (12) is moved past the folding roller (56) by a revolving disc (15).
- With respect to claims 5 and 12, the folding roller (56) includes a plurality of lateral portions located between the folding webs (57).

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- With respect to claims 6 and 13, the folding element (56) is a folding roller having folding webs (57) for folding the top flap (53) over the surface (19) of the packet (12).
- With respect to claims 7 and 14, the apparatus of Focke'309 further includes folding lever (58) for interacting with the folding roller (56) to fold bottom flap (54) of the blank (11) over the surface (19) of the packet (12).

### ***Conclusion***

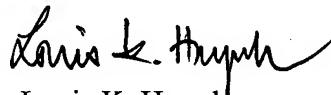
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Louis K. Huynh  
Primary Examiner  
Art Unit 3721

March 13, 2007